

## **Exhibit 5**

*State of California ex. rel. Ven-A-Care of the Florida Keys, Inc. v.  
Abbott Laboratories, Inc., et al.*

Exhibit to the Declaration of Matthew C. Kilman in Support of  
Plaintiffs' Opposition to Mylan's Motion for Partial Summary Judgment

Jackson, Roderick

February 21, 2008

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UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

THE COMMONWEALTH :

OF MASSACHUSETTS :

Plaintiff :

v :

MYLAN, INC., IVAX : C.A. NO. 03-11865-PBS

CORPORATION, WARRICK :

PHARMACEUTICALS :

CORPORATION, WATSON :

PHARMACEUTICALS, INC., :

SCHEIN PHARMACEUTICAL, INC., :

TEVA PHARMACEUTICALS USA, INC., :

PAR PHARMACEUTICAL, INC., :

PUREPAC PHARMACEUTICAL, INC., :

PUREPAC PHARMACEUTICAL CO., :

and ROXANE LABORATORIES, INC. :

Defendants :

\* \* \*

Videotape deposition of Roderick Jackson

Thursday, February 21, 2008

\* \* \*

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\* \* \*

Videotaped Deposition of Roderick Jackson

Thursday, February 21, 2008

\* \* \*

a witness herein, taken on behalf of the Plaintiff in  
the above-entitled cause of action pursuant to notice  
and the Federal Rules of Civil Procedure, by and  
before Kathy D. Landock, Notary Public and Registered  
Merit Reporter in and for the State of West Virginia,  
at Streski Reporting & Video Service, WesMon Center  
IV 829 Fairmont Road, Suite 101, Morgantown, West  
Virginia 26501, commencing at 10:06 a.m.

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1 Christi with them and was transferred to Houston,  
2 Texas. I was with them less than a year because I  
3 wanted to get back to Corpus Christi.

4 On my arrival in Corpus Christi, and I  
5 can't tell you specifically what time that was, I  
6 obtained a job with Southwestern Wholesale Drug. I  
7 was with them about five and a half years, six  
8 years, somewhere in there.

9 I had a brief stint where a gentleman and  
10 I bought some franchise food companies, one was a  
11 company by the name of Der Weinersnitzel and the  
12 other was a Taco Bell. And I was in that for not a  
13 long time, unfortunately my partner died of a heart  
14 attack and I liquidated the business, I'm going to  
15 guess somewhere around 1968.

16 I then had a brief stint of three months  
17 looking for a job, but I worked with a company  
18 called Madison Chemical out of Chicago and then  
19 obtained what I would call full-time employment  
20 with Lederle Laboratories in the latter part, I  
21 believe it was 1968. I was with Lederle until  
22 March of 1986. And from 1986 until May 1 of 2002 I

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1 was with Mylan Laboratories.

2 I retired on that date, May 1 of 2002,  
3 stayed retired about three and a half years and  
4 have recently gone back to work on a somewhat  
5 limited basis with a company called Cobalt  
6 Laboratories.

7 Q. Let me go back for a second and just ask  
8 you about a couple of your jobs.

9 When you were with Southwest Wholesale  
10 Drug, what was their business?

11 A. It was a wholesale distribution company  
12 that was eventually acquired by Bergen, Brunswick  
13 sometime after I left the company, but it was a  
14 similar company to McKesler Cardinal, those type  
15 companies.

16 Q. What was your position with Southwest  
17 Wholesale Drug?

18 A. I had a number of them. Do you want them  
19 all?

20 Q. If you would.

21 A. I started in the warehouse on the  
22 receiving dock. I went from that to putting the

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1 A. Yes.

2 Q. So I think you said you joined Mylan in  
3 March of '86?

4 A. That's correct.

5 Q. What was your position when you joined?

6 A. Vice-president of marketing and sales.

7 Q. How long do you hold the position of  
8 vice-president of marketing and sales?

9 A. Until 1992.

10 Q. What happens in 1992?

11 A. Then I was promoted to senior  
12 vice-president of the company.

13 Q. Still with responsibility for marketing  
14 and sales?

15 A. That was part of the job at that point,  
16 yes.

17 Q. What other, if any, duties or  
18 responsibilities do you assume in '92?

19 A. In '92 I took over -- not took over, but  
20 created business development and then became very  
21 entrenched in strategic planning and strategic  
22 direction for the company.

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1           A.    As far as the price changes, as I  
2   remember it on Lorazepam, I made the changes on the  
3   price, the selling price.

4           As far as any other, you know, peripheral  
5   prices around AWP or whatever else, that would have  
6   come through Tom.

7           Q.    Maybe it's helpful to clarify a little  
8   bit. When you say selling price, you're referring  
9   to the contract price, the actual transaction  
10   between Mylan and its customer; is that right?

11           MR. ESCOBAR: Objection to the form.

12           A.    Again, you seem to want to mix things. A  
13   contract price I did not set, I would not have set  
14   the contract price. The price that I wanted the  
15   product sold for at that time, as I call it the  
16   re-launch, I set that price.

17   BY MR. MULLIN:

18           Q.    You've referred to selling price. Is  
19   there also something called the WAC price?

20           A.    There are occasions when a WAC price is  
21   used. I'm not sure if we used them on everything  
22   or not.

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1 A. That was my understanding.

2 MR. ESCOBAR: Objection to the form.

3 BY MR. MULLIN:

4 Q. With regard to the WAC and AWP prices, is  
5 it fair to say that you supervised the people that  
6 set the WAC and AWP prices in connection with the  
7 Lorazepam price change, 1998 price changes?

8 MR. ESCOBAR: Objection to the form.

9 A. I would have been their direct report or  
10 indirect report.

11 BY MR. MULLIN:

12 Q. Well, I think you said it was Tom was the  
13 guy; right?

14 A. Tom was the guy.

15 Q. So that you were his direct report?

16 A. According to this organizational chart.  
17 As I said, functionally I don't think we were  
18 operating that way.

19 MR. MULLIN: Let's mark this as our  
20 next exhibit.

21 \* \* \*

22 (Whereupon, Exhibit Jackson 004 was

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1 marked for identification purposes.)

2 \* \* \*

3 BY MR. MULLIN:

4 Q. I'm showing you what has been marked as  
5 Exhibit No. 4. This is another one of those tables  
6 of organization that was produced to us by the  
7 company. You'll notice that on the first page,  
8 lower left-hand corner it says as of September 29,  
9 '99.

10 Do you see that?

11 A. Yes.

12 Q. Mr. Puskar is at the top and you're  
13 listed as the senior vice-president, Mylan  
14 Laboratories, Inc.; right?

15 A. Yes.

16 Q. If you flip to page 2 of Exhibit No. 4,  
17 essentially there is Mr. DeBone, Lou DeBone is  
18 senior vice-president and it has Mylan  
19 Pharmaceuticals reporting to him; is that right?

20 A. That's what it says.

21 Q. And below that there's various boxes and  
22 entities, none of which indicate sales and

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1 marketing responsibilities; is that right?

2 A. That's correct.

3 Q. Then if you turn to the third page of  
4 Exhibit No. 4, the heading on the document is  
5 business development, sales and marketing  
6 administration, Mylan Laboratories; right?

7 A. Yes.

8 Q. And you're at the head of this  
9 organization chart as of September 29, '99; right?

10 A. Yes.

11 Q. And you've got Hal Korman VP sales and  
12 marketing reporting to you; right?

13 A. Yes.

14 Q. And at that time Hal would have been the  
15 VP sales at Mylan Pharmaceuticals?

16 A. Yes.

17 Q. And over on the far right-hand side  
18 you've got Tom Darby, VP pricing contracts and  
19 admin reporting directly to you?

20 A. That's correct.

21 Q. And is that consistent with your  
22 recollection that for a number of years both Korman

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1 and Darby reported directly to you?

2 A. From an organizational standpoint, this  
3 chart, that is correct. From a functional  
4 standpoint, Tom and Hal were hand in hand, that's  
5 how they did -- they made all the decision. The  
6 only time I was involved is when they thought my  
7 input would be necessary.

8 But from a functional standpoint, despite  
9 what this chart says, that's just not how we  
10 operated it.

11 Q. And essentially this chart, page 3 of  
12 Exhibit No. 4, it shows Bill Richardson being the  
13 president of Bertek and reporting to you; correct?

14 A. That's correct.

15 Q. Was that true?

16 A. Yes.

17 Q. That's the way you operated?

18 A. Yes.

19 Q. To the extent that Bertek published any  
20 prices to price reporting services, who was  
21 determining Bertek's prices?

22 A. That would have been Bill and David

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1 are.

2 Q. Do you have a recollection in February of  
3 1998 Mylan announced some price changes with regard  
4 to Lorazepam and Chlorazapate?

5 A. Yes.

6 Q. I'm focused on the period just prior to  
7 that.

8 A. That would be '97.

9 Q. Second half of '97.

10 A. Okay, now what was the question?

11 Q. Were you having any supply problems with  
12 API in late '97?

13 MR. ESCOBAR: Objection to the form  
14 and no foundation.

15 A. I remember there was some discussions  
16 about supply problems on some drugs. I don't  
17 remember if this was the one or not. It's too long  
18 ago for me to remember today.

19 BY MR. MULLIN:

20 Q. In 1997, did you do a review of Mylan's  
21 product line to identify drugs that might be  
22 amenable to price increases?

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1 A. Yes, I did. I personally did that.

2 Q. And what were the criteria that you used  
3 in identifying drugs that might be susceptible or  
4 amenable to price increase?

5 A. We had done -- we being the sales and  
6 marketing area -- had done several reviews of  
7 products and their contribution or lack of  
8 contribution to the income statement.

9 And in that process I also requested a  
10 review to see who we were competing with on some of  
11 these products, because again, on a day-to-day  
12 basis I had gotten quite far away and had relied on  
13 the staff that I have indicated to you, which were  
14 either Hal Korman and Tom Darby or whomever was in  
15 that job at whatever time.

16 And in that review it became apparent to  
17 me that we had some products that were not doing  
18 very well. And as I looked, particularly on some  
19 of them, much to my surprise, I found that we were  
20 handling these products as if there were multitudes  
21 of competitors in the marketplace, where in fact in  
22 some of these products we were the only company

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